

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-04 OES-06 L-03

TRSE-00 STR-04 ITC-01 /041 W
----- 090575

P R 071145Z APR 76

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 4903

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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E. O. 11652: NA

TAGS: EWWT BR

SUBJ: SHIPPING: PRUDENTIAL GRACE FROZEN ORANGE JUICE CONCENTRATE
COMPLAINT

REF: STATE 064945

1. CONGEN RIO HAS INVESTIGATED PRUDENTIAL-GRACE LINE ALLEGATIONS,
CONTAINED REFTEL, REGARDING SHIPMENT OF FROZEN ORANGE JUICE
CONCENTRATE (FOJC) FROM SANTOS TO LOS ANGELES AND VANCOUVER.

2. IT IS NOT POSSIBLE TO PROVE THE CHARGE THAT THE BRAZIL-
IAN GOVERNMENT INTERCEDED DIRECTLY WITH THE FOJC FIRMS REGARDING
THIS SHIPMENT. SENIOR OFFICERS AT MOOREMACK, PRUDENTIAL-GRACE
AGENTS IN BRAZIL (WHO ARE THE ORIGINAL SOURCE OF THE ALLEGATIONS),
STATE ONLY THAT THEY BELIEVE SUCH INTERCESSION OCCURRED, BUT HAVE
NO DOCUMENTATION TO SUBSTANTIATE IT. THEY CANNOT EVEN SAY WHICH
AGENCY OF THE GOVERNMENT IS RESPONSIBLE FOR PUTTING THE CON-
SORTIUM TOGETHER. THEY SURMISE THAT IT WAS CACEX, THE FOREIGN
TRADE DEPARTMENT OF THE BANCO DO BRASIL.

3. THE CHARGE LEVELLED IN PARA 2 REFTEL REGARDING GOB CASH
PAYMENTS POLICY SINCE OCT 1975 FOR FISCAL BENEFITS IS ERRONEOUS.

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GOB FISCAL INCENTIVES FOR EXPORTS REMAIN IN EFFECT, BUT THERE HAS

BEEN NO CHANGE TO OUR KNOWLEDGE ON APPLYING THE IPI CREDIT. IT IS POSSIBLE FOR A BRAZILIAN EXPORTER TO RECEIVE A CASH PAYMENT. HOWEVER, THIS IS USUALLY MADE ONLY AS LAST RESORT WHEN IT CAN BE ESTABLISHED THAT THE EXPORTER CANNOT UTILIZE OTHER MEANS OF TAKING THE EXPORT INCENTIVE CREDITS.

4. THE GOB AMENDMENT CITED PARA 2 REFTEL IS MINISTRY OF FINANCE PORTARIA NO. 182 OF MAY 19, 1975, ESTABLISHING THE IPI RATE (ALÍQUOTA) FOR ORANGE JUICE AT 15 PERCENT. THIS RATE IS TO BE IN EFFECT FROM JULY 1, 1975 TO MAY 31, 1976. AFTER LATTER DATE RATE DROPS TO 8 PERCENT.

5. DECREE 64833 OF JULY 17, 1969, IMPLEMENTED DECREE-LAW 491 OF MAY 5, 1969, ESTABLISHING THE BASIS FOR BRAZIL'S EXPORT INCENTIVE PROGRAM. A SUMMARY OF GOB EXPORT INCENTIVES RELATING TO DECREE-LAW 491 AND OTHER, MORE RECENT, LEGISLATION IS CONTAINED IN RIO'S A-63 OF MAY 20, 1974. WE ARE POUCHING COPIES OF THIS AIRGRAM TO OFFICE OF MARITIME AFFAIRS.

6. IT IS OUR UNDERSTANDING THAT GOB EXPORT INCENTIVE PROGRAM ENTITLES EXPORTERS TO ADD COST OF FREIGHT TO THE FOB VALUE OF THE EXPORT IN CALCULATING IPI BENEFITS WHEN SHIPMENT IS MADE ON A BRAZILIAN FLAG VESSEL. COST OF INSURANCE IS ALSO ELIGIBLE FOR SAME PURPOSE WHEN OBTAINED FROM BRAZILIAN FIRM, ENABLING EXPORTER TO CALCULATE HIS FISCAL BENEFITS ON CIF BASIS. (NOTE: ALL EXPORTERS ARE ENTITLED TO EXPORT INCENTIVES ON FOB BASIS REGARDLESS OF NATIONALITY OF VESSEL OR INSURANCE FIRM).

7. IT APPEARS TO US THAT GOB FISCAL BENEFITS IN FAVOR OF BRAZILIAN FLAG VESSELS ALONE MAY HAVE BEEN SUFFICIENT INDUCEMENT FOR EXPORTERS TO HAVE PREFERRED USE OF LLOYD BAGE. THE \$82,000, WHILE IT MAY NOT HAVE BEEN PAID IN CASH, IS THE AMOUNT OF THE FISCAL CREDIT ON THE IPI TAX THAT EXPORTERS ARE ENTITLED TO UNDER BRAZILIAN LEGISLATION.

8. COMMENT: IN DISCUSSIONS WITH CONGEN OFFICER, MOOREMACK OFFICIALS STATE THAT THEY ARE BECOMING INCREASINGLY CONCERNED OVER EFFECTS OF GOB EXPORT INCENTIVE LEGISLATION IN FAVOR OF BRAZILIAN FLAG VESSELS. IN EAST COAST AND GULF TRADE, CONFERENCE POOLING AGREEMENTS MITIGATE ADVERSE EFFECTS. SOUTH-BOUND TRAFFIC IS COVERED BY LIMITED OFFICIAL USE

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EQUAL ACCESS AGREEMENT FOR CARGO RECEIVING GOVERNMENT "FAVOR" (UNDER BRAZILIAN LEGISLATION THIS TYPE OF CARGO COVERS OVER 90 PERCENT OF THE TRADE ACCORDING TO LOCAL AMERICAN SHIPPING LINES). THIRD FLAG VESSELS ARE EXCLUDED FROM CARRYING THIS TRAFFIC. LOCAL MOOREMACK AND DELTA LINE REPS HAVE INDICATED THAT THEY WOULD LIKE TO SEE A SIMILAR NORTHBOUND AGREEMENT. AS ALL BRAZILIAN MANUFACTURED EXPORTS ARE ENTITLED TO FISCAL BENEFITS, THEY ARE RECEIVING A GOVERNMENT FAVOR AND ALL SUCH CARGO WOULD BE RESERVED FOR

NATIONAL FLAG VESSELS. UNDER AN EQUAL ACCESS AGREEMENT PRESENT 40-40-20 WOULD BECOME A DE FACTO 50-50 ARRANGEMENT SHUTTING OUT THIRD FLAG VESSELS.

9. WE BELIEVE PRUDENTIAL GRACE COMPLAINT MAY BE OPENING SHOT IN U.S. SHIPPING LINE CAMPAIGN TO OBTAIN A NORTHBOUND EQUAL ACCESS AGREEMENT. THE PRUDENTIAL LINE COMPLAINT DEMONSTRATES A CLEAR CASE OF DISCRIMINATION AGAINST AN AMERICAN SHIPPING FIRM. AS SUCH, IT COULD BE THE BASIS FOR A TRADE ACT COMPLAINT UNDER TITLE III. IN THEIR COMMENTS TO A CONGEN OFFICER, MOOREMACK OFFICIALS STATED THAT THEY BELIEVE THE THREAT OF TRADE ACT ACTION COULD BE ENOUGH TO INDUCE THE GOB TO CONSIDER SERIOUSLY A NORTHBOUND AGREEMENT. THESE SAME OFFICIALS COMMENTED THAT THEY WOULD NOT LIKE TO SEE THE PRUDENTIAL GRACE LINE COMPLAINT BECOME THE FOCUS FOR A MAJOR SHIPPING CONTROVERSY BETWEEN THE US AND BRAZIL, BELIEVING (PERHAPS RIGHTLY) THAT THEY WOULD BE HURT IN THE PROCESS. HOWEVER, THEY FEEL THAT THIS ISSUE CAN ONLY BE RESOLVED ON A GOVERNMENT TO GOVERNMENT BASIS. THEY BELIEVE FURTHER THAT THE BEST WAY TO RESOLVE IT WOULD BE FOR A HIGH U.S.G. OFFICIAL TO MEET WITH COMDTE. MANUEL ABUD, SUPERINTENDENT OF SUNAMAM, THE NATIONAL MERCHANT MARINE AGENCY, TO POINT OUT THE DANGERS OF A POSSIBLE TRADE ACT COMPLAINT AND SUGGEST A NORTHBOUND EQUAL ACCESS AGREEMENT AS A WAY OUT OF THE IMPASSE.

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